

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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FELIX MOLINA,

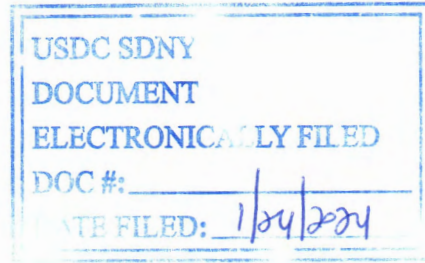
Plaintiff,

-against-

CITY OF NEW YORK, et al.,

Defendants.

X



23 Civ. 9189 (CM)

ORDER DENYING IN FORMA PAUPERIS APPLICATION

McMahon, J.:

Felix Molina has brought a civil action for damages against the City of New York and affiliated defendants. He has filed an application for relief from prepayment of filing fees pursuant to 28 U.S.C. §1915.

A district court has wide discretion to determine whether to waive the filing fee, especially in a civil action for damages, which this one is. 1 Moore's Federal Practice -- Civil §4.40 (on line edition). And if Mr. Molina had filed his case *pro se*, I would readily grant his application, because he is indeed indigent, per his IFP affidavit. But Mr. Molina is represented by counsel, Alex Padilla, Esq. Counsel does not reveal his financial arrangement with Mr. Molina, but the court is aware that, in the ordinary course, counsel take cases like this one on contingency, pursuant to a retainer agreement that entitles them either a percentage of any award made to their clients or to any statutory attorneys' fees as awarded by the court, whichever is greater. And in the ordinary course, counsel who take cases on contingency advance the filing fee for the matter. Mr. Molina's lawyer has not given the court a copy of his retainer agreement or explained why Mr. Molina's case should be treated any differently than every civil action for damages filed by a represented plaintiff on a contingent fee basis, with counsel advancing fees if his client cannot pay them. There may be circumstances that differentiate this case from the run of the mill civil action, but neither Mr. Molina nor Mr. Padilla has made the court aware of them.

For that reason, the motion is denied.

Dated: January 24, 2024

A handwritten signature in blue ink, appearing to be "C. McMahon", written over a horizontal line. Below the line, the text "U.S.D.J." is printed.

BY ECF TO ALL COUNSEL